

EXHIBIT 5

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		<u>I N D E X</u>				
	<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>	<u>VOIR DIRE</u>
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2						
3						
4						
5	SEAN CALDWELL, SR.					
6	by Ms. Kobell	16384				
7	by Mr. Hirsch		16466			
8	by Mr. Brody		16528			
9	by Mr. Goldsmith		16529			
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13	JUSTIN WATSON					
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JUDGE ESPOSITO: Mr. Caldwell, could you come back up, please?

MR. HIRSCH: Thank you.

BY MR. HIRSCH:

You testified earlier that you are currently unemployed, correct?

Q And how long have you been unemployed?

A Since I would say May 2015, sir.

Q May of 2015?

A Yes, sir.

Q Okay. And are you currently being compensated by the union?

A No, sir.

Q Been paid any money to attend trial today?

A Not to my knowledge, sir.

Q How did you get here today?

A Through my attorney, Deena, sir.

Q Is Deena Kobell your attorney, is that your understanding?

1 A Yes, to my understanding, sir.

2 Q Okay. So Ms. Kobell drove you here today, is that what
3 you're saying?

4 A I'm sorry, sir?

5 Q Are you saying that Ms. Kobell drove you here today?

6 A No, sir.

7 Q No, sir. So when you say you came here through Ms.
8 Kobell, what do you mean?

9 A When we had our last meeting together, when I went down to
10 see her, we spoke about myself and the other two witnesses
11 coming up Amtrak.

12 Q Okay. Have you ever been employed by the Service
13 Employees Union?

14 A Employed by them, sir? No, sir, not to my knowledge.

15 Q Did you ever get paid to attend protests in Philadelphia?

16 A No, sir.

17 Q Were you offered any money in case you got arrested at a
18 protest?

19 A Negative, sir. Excuse me, no, sir.

20 Q Okay. Mr. Caldwell, you testified earlier about a series
21 of employee action forms ranging in date from March 21, 2014
22 going all the way back to October 31, 2012. Do you remember
23 that testimony?

24 A Yes, sir.

25 Q First of all, let me ask you, do you recall a time when

1 Danielle Dawkins became the person in charge of the store at
2 Broad and Allegheny in Philadelphia?

3 A Yes, sir.

4 Q Okay. And was that approximately August of 2013, to the
5 best of your knowledge?

6 A Yes, sir.

7 Q And before that, Danielle Dawkins was in charge of that
8 store to the best of your knowledge, right?

9 A Yes, sir.

10 Q Okay. Do you remember your paychecks changing in August
11 2013 from Joe-Dan Enterprises to Joe-Dan MadAlisee LTD LLC?

12 A Vaguely, sir, but I believe so, sir.

13 Q Okay. So the paychecks you received from August 2013 to
14 the end of your employment in March 2014, they all said Joe-Dan
15 MadAlisse LTD LLC, right?

16 A Possibly, sir.

17 Q To the best of your knowledge?

18 A Yes, sir.

19 Q Okay. All of these employee action forms that you said
20 you never saw before Ms. Johnson gave them to you on or about
21 March 26th, 2014, you're not saying that you were not, in fact,
22 tardy or absent on these days indicated in these employee
23 action forms, are you?

24 MR. WISSINGER: Objection to that form, there's a double
25 negative in there. The form is very confusing. You're not

1 saying that you were not.

2 MR. HIRSCH: Well, is that a problem, does the witness not
3 understand the question?

4 THE WITNESS: Could you repeat the question, sir?

5 BY MR. HIRSCH:

6 Q Sure. You were shown all of these employee action forms
7 and my question to you is, do you deny that you were absent or
8 late as indicated in each of these forms on the day in
9 question?

10 A Yes, sir.

11 Q You deny it?

12 A Because, sir, there's no way that I can verify it.

13 Q So if someone named Jackie Hall entered an employee action
14 form saying that you were late or absent on a given day, are
15 you saying that Jackie Hall was a liar?

16 MS. KOBELL: Objection, calls for speculation.

17 MR. HIRSCH: I'm just asking what the witness is saying.
18 I don't think it requires speculation.

19 JUDGE ESPOSITO: I don't -- your question is that --

20 MR. HIRSCH: Is he saying the manager who wrote this is a
21 liar.

22 MR. RUCKER: We don't even know --

23 UNIDENTIFIED: It assumes facts not established.

24 JUDGE ESPOSITO: Hold on.

25 MR. HIRSCH: Well, the form itself was offered into

1 evidence, it's a document in the record.

2 JUDGE ESPOSITO: No, I understand that, Mr. Hirsch, it's
3 just that my recollection of his testimony and I have to find
4 my notes, is that he was not sure about who some of the people
5 whose names appeared toward the bottom of the form were.

6 MR. HIRSCH: I understand. Jackie Hall was one person
7 said he did know. So that was why I asked that. That's why I
8 used that as an example.

9 JUDGE ESPOSITO: Yeah, he said he knew Jackie Hall. So
10 are you asking him about the ones that Ms. Hall signed?

11 BY MR. HIRSCH:

12 Q With respect to Ms. Hall, are you saying that if she
13 entered an employee action form saying you were late or absent
14 on a particular day that she was lying if she did so?

15 A If she didn't bring it to my attention I would say yes,
16 sir.

17 Q Okay. So if she didn't give you a copy of the employee
18 action form, she was lying?

19 A Yes, sir.

20 Q Okay. And is it your testimony that you never knew your
21 manager Andre Davis?

22 MS. KOBELL: Yeah, Your Honor, I think that question
23 mischaracterizes Mr. Caldwell's testimony. I don't believe
24 that was his testimony.

25 THE WITNESS: I --

1 JUDGE ESPOSITO: Hold on, sir. Regarding Mr. Davis?

2 MR. HIRSCH: Yes.

3 JUDGE ESPOSITO: I don't see anything his previous --

4 MS. KOBELL: No, I didn't ask him about Mr. Davis.

5 JUDGE ESPOSITO: -- regarding Mr. Davis.

6 MR. HIRSCH: Well, he's one of the names that shows up in
7 the documents that were offered.

8 JUDGE ESPOSITO: I know, I understand. I'm just saying
9 that he wasn't asked about Mr. Davis.

10 BY MR. HIRSCH:

11 Q Okay. Do you remember having a manager named Andre Davis?

12 A Vaguely, sir.

13 Q Okay. It is possible that you did when you were working
14 for Joe-Dan MadAlisse?

15 A It's a possibility, sir.

16 Q Okay. And if Mr. Davis wrote an employee action form
17 saying that you were late for a shift, are you saying that he
18 was lying?

19 A Yes, sir, because he didn't present it to me, sir.

20 Q And that's because he never showed you a copy of the form?

21 A Ever, no, sir.

22 Q Do you remember your manager Tiona Edwards, you say she
23 was the fifth manager, right?

24 A Yes, sir.

25 Q Okay. And you saw a series of write-ups under her name.

1 A Yes, sir.

2 Q Are you saying Tiona Edwards is a liar?

3 MR. WISSINGER: Objection, Your Honor, this calls for
4 speculation.

5 MR. HIRSCH: What's the speculation? I'm asking if he's
6 saying that she's lying.

7 MR. WISSINGER: He never saw the form, so how is he to
8 know a particular individual wrote it or is the purported liar
9 that Mr. Hirsch is trying to get at?

10 MR. HIRSCH: He's --

11 MR. WISSINGER: He didn't ever see the document.

12 MR. HIRSCH: -- provided these forms to the National Labor
13 Relations Board, General Counsel, and they've been offered into
14 evidence --

15 MR. WISSINGER: That speaks nothing to who --

16 MR. HIRSCH: -- and I'm asking whether he thinks that this
17 is a false statement.

18 JUDGE ESPOSITO: Okay. I mean, these forms were given to
19 him by Ms. Johnson, correct, sir?

20 THE WITNESS: That's correct, ma'am.

21 JUDGE ESPOSITO: At the time that he was discharged. I
22 don't -- well, you can ask the question, I just don't see the
23 probative value of what he thinks about whether they were lying
24 or not.

25 BY MR. HIRSCH:

1 Q Do you believe that Tiona Edwards was lying when she wrote
2 that you were late --

3 JUDGE ESPOSITO: Okay. But --

4 MR. WISSINGER: Assumes facts not --

5 JUDGE ESPOSITO: I mean --

6 MR. WISSINGER: It's not been established who wrote it.

7 JUDGE ESPOSITO: Yeah. There isn't --

8 MR. HIRSCH: Well, they're business records. I guess
9 we'll establish that they're business records, but they've
10 already admitted into evidence, Your Honor.

11 MR. WISSINGER: That doesn't matter.

12 MR. HIRSCH: I don't think I have to get past the hearsay
13 with the business records exception in this case because
14 they've already been admitted by the offering of General
15 Counsel.

16 MS. KOBELL: I would not, Mr. Hirsch, that you denied
17 Tiona Edwards was a 211 in your answer.

18 MR. HIRSCH: That may be so, that we neither admitted nor
19 denied it, but the bottom line this is being offered at this
20 point and --

21 MR. WISSINGER: Then that further establishes that you're
22 asking questions because there's no --

23 MR. HIRSCH: Well, what's the objection to my asking to
24 whether this witness thinks that she's lying? Whether he
25 believes it.

1 MR. RUCKER: Because there's no statement by her yet.

2 JUDGE ESPOSITO: Okay. The answer stated that to the
3 extent an answer was required to the allegations regarding Ms.
4 Edwards' supervisory and agency status, the -- it's denied, so.

5 MR. HIRSCH: What's the issue? I mean, the bottom line
6 it's an employee action form with her name, so whatever she
7 wrote and whether she's a supervisor or not under 211 the
8 question is, does he believe that this is a false statement in
9 the employer's records.

10 JUDGE ESPOSITO: You mean just the statement itself?

11 MR. HIRSCH: Sure. Whether he thinks that Tiona's -- that
12 that statement reflected -- appearing to reflect, you know, an
13 entry from Tiona Edwards is a lie.

14 MR. WISSINGER: We still have no idea who authored the
15 document.

16 JUDGE ESPOSITO: Okay.

17 MR. HIRSCH: These are business records, Your Honor, we're
18 past that.

19 JUDGE ESPOSITO: I mean, are you asking about -- you're
20 asking about the statement contained in the document regarding
21 --

22 MR. HIRSCH: Yes.

23 JUDGE ESPOSITO: -- what he did or didn't do --

24 MR. HIRSCH: Sure.

25 JUDGE ESPOSITO: -- or failed to do.

1 MR. HIRSCH: Sure, correct.

2 JUDGE ESPOSITO: Okay. Whether or not he considers that
3 to be accurate.

4 MR. HIRSCH: Correct.

5 JUDGE ESPOSITO: Whether the witness considers --

6 MR. WISSINGER: That's the question, Your Honor, not
7 whether he thinks someone else is lying.

8 JUDGE ESPOSITO: Okay.

9 MR. HIRSCH: Well --

10 JUDGE ESPOSITO: Mr. Hirsch is saying that is the question
11 so.

12 MR. WISSINGER: All right.

13 JUDGE ESPOSITO: You have no idea what the question is,
14 sir? Of course not. Okay. Would you ask the question again,
15 Mr. Hirsch?

16 BY MR. HIRSCH:

17 Q Mr. Caldwell, one of the documents that was shown to you
18 as Joe-Dan 4 is an employee action form dated January 25th,
19 2014 stating on the date above, you did a no call, no show.
20 That statement is attributed to although not signed by Tiona
21 Edwards. Do you see that?

22 A No, sir, could you --

23 JUDGE ESPOSITO: He needs to get to the page, Mr. Hirsch.

24 Q It's about the fifth page into Exhibit -- GC Exhibit Joe-
25 Dan 4, one, two, three, four, the fourth page in. It's the

1 fourth double-sided.

2 A So on the back side of the --

3 Q No, it's on the front.

4 MR. HIRSCH: May I approach the witness, Your Honor?

5 JUDGE ESPOSITO: Here you go, sir, this is it. You have
6 it. Go ahead.

7 Q Okay. You see that where it says that statement on the
8 date above you did a no call/no show?

9 A Yes, sir.

10 Q And the manager whose name appears below is Tiona Edwards
11 although she did not sign it. Do you see that?

12 A Yes, sir.

13 Q Do you think that the statement on the date above you did
14 a no call/no show is true or false?

15 A I don't know, sir.

16 Q It's possible it's true?

17 A I don't know, sir.

18 Q You testified earlier you did not recognize the name of
19 Christina Harris as being one of your former managers.

20 A Yes, sir.

21 Q Okay. Looking at the two employee actions with Christina
22 Harris' name on them, does that refresh your recollection in
23 any way about whether or not she was, in fact, one of your
24 managers in about January 2014?

25 JUDGE ESPOSITO: Here you go, sir, here's the one with

1 Christiana Harris.

2 Q There's one dated January 30th, 2014 and one January 31st.

3 JUDGE ESPOSITO: All right. I'm showing the witness the
4 one dated January 31st.

5 MR. HIRSCH: Okay.

6 JUDGE ESPOSITO: Of 2014.

7 THE WITNESS: Okay.

8 BY MR. HIRSCH:

9 Q Does that refresh your memory at all?

10 A No, sir.

11 Q You just don't remember --

12 A This is --

13 Q -- having Christina Harris as a former manager?

14 MR. WISSINGER: Asked and answered.

15 JUDGE ESPOSITO: Overruled.

16 THE WITNESS: No, sir.

17 BY MR. HIRSCH:

18 Q Now, the write-up dated March 19th, 2014 which should be
19 the first one on Exhibit Joe-Dan 4, do you see that one?

20 A Yes, sir.

21 Q Okay. This one's not signed, is it?

22 A No, sir.

23 Q Okay. But this one's not a lie, is it, Mr. Caldwell, you
24 did, in fact, bring in a note from court indicating that you
25 had been in court that day indicating that's why you weren't at

1 work?

2 A I did come into work on this day, and I did pass a note to
3 -- not even a note, but I showed him evidence that I had been
4 in court.

5 Q Some papers from the court?

6 A Some paperwork, correct.

7 Q Okay.

8 A And that was presented to -- not to Dominique but --

9 Q I believe you said John Laforfe (ph), right?

10 A That's correct, yes, sir.

11 Q So this was true that you did, in fact, present that
12 documentation on March 19th, 2014?

13 A To John -- yes.

14 Q Yes.

15 A The 4th, yes, sir.

16 Q And you're just saying you never saw this document before
17 Dominique Johnson handed it to you on March 26th, right?

18 A That's correct, yes, sir.

19 Q Do you know what time you gave that note to John LaForfe
20 on that day after court, March 19th, 2014?

21 A I believe it was in the 1 o'clock hour.

22 Q Approximately 1 o'clock in the afternoon?

23 A I believe so, sir.

24 Q Okay. And normally you would've been scheduled to show up
25 to work at about 6 a.m.

1 A That's correct, yes, sir.

2 Q And it's your testimony that -- you testified earlier that
3 the document attached to GC Joe-Dan 4-A, the third page was, in
4 fact, the vacation book I think that you referenced?

5 MS. KOBELL: Objection, Your Honor, that's
6 mischaracterizing the witness' testimony. I don't believe
7 that's what he said.

8 Q I'm sorry, am I using the wrong term? What did you say
9 this document was? Did you say it was a call-out book?

10 A Yes, sir. Yes, sir.

11 Q Okay. So you said that you signed this call-out book.

12 A Yes, sir.

13 Q And I don't see your name anywhere on the one that you've
14 attached to Exhibit 4-A, am I missing something?

15 A No, sir. I don't see it either.

16 Q It looks like it's for the week of March 16 -- I'm sorry,
17 not week, March 16 through 27.

18 A Yes, sir.

19 Q And your name is nowhere on there, right?

20 A I can't see it, sir.

21 Q Okay. Mr. Caldwell, let's go through some of these
22 employee action forms. And we'll start with the one dated
23 March 12th, 2014, which is the back side of the first page of
24 Exhibit Joe-Dan 4.

25 Now, this is the one that you signed, right?

1 A Yes, sir.

2 Q Okay. And so you don't deny that you were late on March
3 12th, 2014, correct?

4 A That's correct, sir.

5 Q Do you have any reason to doubt that that day you were
6 approximately 55 minutes late?

7 A No, sir.

8 Q Okay. And on that day you called the store at 6:30 in the
9 morning, right?

10 A Yes, sir.

11 Q And somebody answered the phone and acknowledged that you
12 called the store at 6:30, right?

13 A That's correct, sir.

14 Q Okay. You got through to Tiona that morning or somebody
15 else?

16 A I'm not exactly sure who I spoke to, sir.

17 Q Okay. But you had no problem calling into the store on
18 that day, did you?

19 A No, sir.

20 Q Okay. When you called at 6:30, it was already a half hour
21 past the start time of your shift, right?

22 A That's correct, sir.

23 Q So by the time you called you were already late.

24 A Yes, sir.

25 Q Mr. Caldwell, your job at the store maintenance, there

1 were -- to your knowledge, you played an important role in the
2 store, did you not?

3 A Yes, sir.

4 Q If there's no maintenance person in the store, the store
5 can get pretty dirty pretty fast, right?

6 A Yes, it can, sir.

7 Q You can't operate a dirty restaurant, right?

8 A No, you can't, sir.

9 Q Trash can pile up, right?

10 A It's a possibility, sir.

11 Q Floors can get dirty, right?

12 A Yes, a possibility, sir.

13 Q Floors can get slippery.

14 A Yes, sir.

15 Q And those are all functions that you would've been
16 performing in the maintenance task, right?

17 A That's correct, sir.

18 Q I believe you said that the oil had to be changed or
19 filter -- I don't want to mischaracterize what you were
20 describing, the cleaning of the vat, the fry vat.

21 A The fryer vats, yes, sir, as well as the vats that --
22 where they cook chicken and fish.

23 Q Okay. And those things needed to be cleaned for health
24 and safety reasons as far as you know?

25 A Yes, sir.

1 Q And what about the restrooms, they had to be kept clean as
2 well, right?

3 A Yes, sir.

4 Q People could slip if they got wet in there, so it was
5 important to keep the floors dry, right?

6 A Absolutely, sir.

7 Q Delivery trucks, they -- did they have a particular
8 arrival time or was that kind of random?

9 A I believe it was 6 o'clock, sir.

10 Q 6 o'clock in the morning.

11 A Yes, sir.

12 Q So if you weren't there at 6 o'clock in the morning and
13 the delivery truck was arriving, what was supposed to happen in
14 your absence? Somebody else had to do your job?

15 A Yes. What -- if I happen to not be there for whatever
16 reason and nobody, you know, from maintenance was in position
17 then it would fall to my knowledge, to the manager on shift.
18 They would have to fill that void.

19 Q They'd have to unload the truck in your absence, right?

20 A Yes, or delegate to whomever they saw fit.

21 Q So if the manager was unloading the truck or if the
22 manager delegated some other worker to go fill that void as you
23 said, they were taking them off of other tasks, right?

24 A Yes, sir.

25 Q So it was pretty important that you be there on time,

1 right?

2 A Yes, sir.

3 Q Okay. And you understood that very well from the time
4 that you worked at Broad and Allegheny, right?

5 A Yes, sir.

6 Q Mr. Caldwell, I'd like you to turn to the next page, GC
7 Exhibit Joe-Dan 4, this is February 21, 2014. Do you see this
8 one?

9 A Yes, sir.

10 Q This one, again it's purportedly from Andre Davis,
11 although he did not sign it, and it states "today you were 38
12 minutes late for your shift." Do you remember being 38 minutes
13 late to your shift on February 21, 2014?

14 A Negative. Excuse me, no, sir.

15 MR. HIRSCH: Okay. I have uploaded to SharePoint
16 MadAlisse Exhibit 3, for those who are on SharePoint and I do
17 have some various copies for people. May I approach?

18 JUDGE ESPOSITO: Of course.

19 Thank you.

20 MR. HIRSCH: May I hand one to the witness?

21 JUDGE ESPOSITO: Sure.

22 MS. KOBELL: Mr. Hirsch, may I have a copy?

23 MR. HIRSCH: Getting there.

24 MS. KOBELL: Thank you.

25 JUDGE ESPOSITO: Mr. Hirsch, I have two.

1 MR. HIRSCH: Oh, I'm sorry, I gave you an extra one.

2 JUDGE ESPOSITO: Okay.

3 MR. HIRSCH: Is there anybody else who wants a paper copy?

4 MR. GOLDSMITH: I'll take one.

5 MR. WISSINGER: Can you give us the document name again?

6 MR. HIRSCH: It's going to be under Joe-Dan MadAlisse
7 exhibits in SharePoint and this one is MadAlisse 3. And I'm
8 sorry, she doesn't have a computer back there.

9 BY MR. HIRSCH:

10 Q Mr. Caldwell, this is a print out of your time punches
11 from January of 2014 till March 20th of 2014. Have you ever
12 seen one of these before, your time punch entries?

13 A I'm not sure, sir.

14 Q Well, if these are the time punch entries that are
15 reflected in the store's computer system, do you have any
16 reason to believe they are not accurate?

17 MS. KOBELL: Objection, Your Honor, he's testified he's
18 never seen this document before.

19 MR. HIRSCH: I don't believe -- he said he wasn't sure,
20 I'm asking him if he has any reason to doubt that they're
21 accurate.

22 MR. RUCKER: Well, that assumes he knows what they are, we
23 have no testimony --

24 MR. WISSINGER: If he doesn't know what they are, how
25 could he --

1 JUDGE ESPOSITO: All right. Mr. Hirsch is representing
2 that they're time punches from the store system.

3 MR. RUCKER: Has he provided evidence of that?

4 MR. HIRSCH: Well, I'm just asking if the witness has any
5 reason to doubt the accuracy of the time --

6 MR. WISSINGER: He said he has never seen the document.

7 MR. HIRSCH: If Mr. Wissinger would like to take the
8 stand, he's welcome to come testify.

9 JUDGE ESPOSITO: All right. Hold on, hold on. Did you
10 punch in and out of the store, sir?

11 THE WITNESS: Yes, I did, ma'am.

12 JUDGE ESPOSITO: All right. So go ahead.

13 BY MR. HIRSCH:

14 Q So do you have any reason to believe that the time punch
15 entries reflected here are inaccurate?

16 A No, I don't have any reason.

17 Q So if you look to the entry of 3/21, 2014, do you see that
18 line, it's about three-quarters of the way down the page.

19 A I do, sir.

20 Q Okay.

21 MS. KOBELL: Your Honor, at this point, I'm going to
22 object. This is a summary, I'd like to see the underlying
23 documents that were used to prepare it.

24 MR. HIRSCH: No, this is a print out right from QSR soft
25 that was provided to the General Counsel.

1 MS. KOBELL: I'm sorry, where are the underlying
2 documents.

3 MR. HIRSCH: It's a -- it was provided to the General
4 Counsel during the course of the investigation. There is a
5 different time punch entry that's also here that was also
6 produced in the investigation, from QSR soft, it also says he
7 arrived at 6:38.

8 MR. RUCKER: Well, we don't have -- we don't --

9 MR. HIRSCH: I can give you the alternative document, but
10 it's -- you know, these are time punches summary for -- it's an
11 electronic entry run, there's no card.

12 JUDGE ESPOSITO: I understand, I understand, Mr. Hirsch.
13 It's an electronic system and you enter certain parameters or
14 whatever and you get a print out.

15 MR. HIRSCH: Right.

16 JUDGE ESPOSITO: Of the information contained in the --

17 MS. KOBELL: So if they want to put it in as a business
18 record through their witnesses, they're free to. But this
19 witness has never seen this document before.

20 MR. HIRSCH: Well, the witness wasn't sure if he's seen
21 this document before.

22 JUDGE ESPOSITO: All right. Mr. Hirsch can still ask him
23 questions about the document even if he's never seen it before.
24 Okay. Go ahead, Mr. Hirsch.

25 BY MR. HIRSCH:

1 Q Okay. So, Mr. Caldwell, you see the entry to February 21,
2 2014?

3 A I do, sir.

4 Q Okay. And you see it shows there a time punch entry of
5 6:38 a.m. for February 21.

6 A Yes, sir, I see it, sir.

7 Q Okay. And you don't have any reason to doubt that's
8 accurate, correct?

9 A No, sir, I don't.

10 Q So, in fact, on February 21, 2014, you were 38 minutes
11 late for your shift, right?

12 A According to this, yes, sir.

13 Q Okay. And you have no evidence to the contrary, do you?

14 A No, sir.

15 Q Okay. And the only reason why you're saying that the
16 employee action form was inaccurate is because you've never
17 seen a copy before --

18 A Because it was --

19 Q -- and not given to you?

20 A I'm sorry, sir, please.

21 Q Is the only reason you're saying that these employee
22 action forms were not accurate is because you never saw a copy
23 before Ms. Johnson gave them to you on March 26th?

24 A That's correct, sir.

25 Q That's the entire reason why you think these are

1 inaccurate.

2 MR. WISSINGER: Asked and answered, Your Honor.

3 JUDGE ESPOSITO: Yeah, that's been asked several times.

4 BY MR. HIRSCH:

5 Q Let's go to the next one, Mr. Caldwell, February 1, 2014.

6 A On the timesheet, sir, on the --

7 Q No, I'm sorry, going back to GC Exhibit Joe-Dan 4, the
8 employee action form of February 1, 2014.

9 A Okay.

10 Q Do you see that one?

11 A No, no, I'm don't -- where am I going to?

12 JUDGE ESPOSITO: The February 1st, 2014, the last page,
13 page 4.

14 Q It's the one where you're suspended from February 2nd to
15 February 8th.

16 A Sorry.

17 Q Do you see that one?

18 JUDGE ESPOSITO: Let me see.

19 THE WITNESS: I'm sorry, ma'am.

20 JUDGE ESPOSITO: Don't worry about it.

21 MR. HIRSCH: It's the back of the second page of the
22 exhibit.

23 JUDGE ESPOSITO: Here you go.

24 THE WITNESS: Thank you.

25 JUDGE ESPOSITO: February 1st, 2014, Mr. Hirsch?

1 MR. HIRSCH: Correct.

2 BY MR. HIRSCH:

3 Q Mr. Caldwell, you were shown this document before and I
4 believe you said that you have never seen this one until Ms.
5 Johnson showed it to you on March 26th, 2014, correct?

6 A That is correct, sir.

7 Q You did know that you were taken off the schedule for
8 those days, correct?

9 A I did notice, yes, sir.

10 Q And you did know it was because of your tardinesses,
11 correct?

12 A No, I wasn't sure, sir, to be honest with you, and that's
13 why I inquired. I had actually asked --

14 Q You asked Tiona.

15 A Yes, I did, sir, yes.

16 Q Okay. And Tiona told you that Dominique Johnson had taken
17 you off the schedule, correct?

18 A Yes, sir. Yes, sir.

19 Q And you assumed it was because of your tardiness, correct?

20 MS. KOBELL: Objection, that was not his testimony.

21 JUDGE ESPOSITO: He didn't say one way or another.

22 Sir -- I'll let you -- Mr. Hirsch, can you ask the
23 question again, please?

24 MR. HIRSCH: Yes.

25 BY MR. HIRSCH:

1 Q You assumed that it was because of your tardiness, right?

2 A I'm not sure, sir. I mean, I'm not sure if that's what I
3 assumed, sir.

4 Q Well, do you remember giving a statement to the General
5 Counsel at the Philadelphia office of the NLRB back on April
6 2nd of 2014?

7 A Yes, sir.

8 Q Okay. And you reviewed your statement before coming to
9 testify today, didn't you?

10 A Yes, sir.

11 Q So do you not remember reading in your own statement that
12 "I did not ask Johnson why I was left off the schedule and
13 assumed it was due to call-outs in the weeks prior." Do you
14 remember that?

15 A Vaguely, sir.

16 Q But that is what you said in your statement, right?

17 A Yes, sir.

18 Q Okay. And your memory of this event was better back on
19 April 2nd, 2014 than it is today, right?

20 A Yes, sir.

21 Q Okay. In fact, you said "the employer's practice seems to
22 be penalize employee by leaving them off the schedule for a day
23 if the employee calls out in the prior week." Do you remember
24 saying that, sir?

25 A That's true, sir.

1 Q Okay. So you knew that the employer had a practice of
2 taking employees off the schedule when they called out without
3 a proper excuse, correct?

4 A As -- I mean, that's one of a number of reasons, sir.

5 Q Right. But that was one of the things that they did, they
6 would take you off the schedule if you called out without an
7 excuse, right?

8 A That is a practice, sir.

9 Q You didn't like the fact that it was not a written policy,
10 right?

11 MR. WISSINGER: Objection, relevance.

12 JUDGE ESPOSITO: Overruled.

13 THE WITNESS: Could you repeat, sir?

14 BY MR. HIRSCH:

15 Q You felt that the employer should have had a written
16 policy about this, right?

17 A About what, sir?

18 Q About taking off the schedule if you call out the week
19 before?

20 MR. WISSINGER: I renew it, his feeling on whether the
21 employees have a policy, how is that relevant?

22 JUDGE ESPOSITO: No, overruled.

23 THE WITNESS: I didn't have -- I didn't feel any type of
24 way to my knowledge, sir.

25 BY MR. HIRSCH:

1 Q Didn't you call this a form of non-policy discipline if
2 you got taken off the schedule because the week prior you'd
3 called out without a proper excuse, you called that a form of
4 non-policy discipline?

5 A A form of non-policy discipline?

6 Q Yeah.

7 A My words, sir, don't recall, sir.

8 Q You don't recall that? Do you recall testifying at an
9 unemployment compensation hearing on June 3rd, 2014 in
10 Philadelphia, Pennsylvania?

11 A Yes, sir.

12 Q Okay. Do you recall testifying under oath at that time?

13 A Yes, sir.

14 Q Have you reviewed your unemployment compensation
15 transcript from that hearing before coming to testify today?

16 A Not to my knowledge, sir.

17 MR. HIRSCH: May I approach?

18 JUDGE ESPOSITO: Sure.

19 (Pause)

20 MS. KOBELL: Sorry, when did this -- before you ask the
21 question, I have not seen this transcript. When --

22 MR. HIRSCH: I e-mailed it to you Deena.

23 MS. KOBELL: When was that?

24 MR. HIRSCH: I can go pull it up right now, assuming I
25 have access to the internet, but I absolutely did.

1 MS. KOBELL: Within the last week or a year ago or --

2 MR. HIRSCH: Yeah, within the last year, certainly not
3 within the last week. I sent it to you. It was produced. If
4 you'd like -- if we can go off the record, I can time the time
5 to --

6 MS. KOBELL: Do you have a copy, if I can have it?

7 MR. HIRSCH: Yeah, I was about to hand you a copy.

8 JUDGE ESPOSITO: Let's go off the record for a minute.

9 MR. HIRSCH: Sure. Do you want me to look that up and
10 then I can certainly --

11 JUDGE ESPOSITO: No, no, I --

12 (Recessed at 1:41 p.m.; reconvened at 1:43 p.m.)

13 BY MR. HIRSCH:

14 Q All right. Mr. Caldwell, you've been handed a document
15 that's been marked as Exhibit MadAlisse 16. You already
16 testified that you remember coming to testify under oath at an
17 unemployment compensation hearing on January 3rd -- excuse me,
18 June 3rd, 2014, right?

19 A Yes, sir.

20 Q Okay. I'd like you to turn to page 16, well, let me start
21 with the first page actually, Mr. Caldwell. If you'll notice
22 the bottom third of the page, there are letters R-C-E-L and E-
23 W. Do you see that?

24 A Yes, sir.

25 Q So the one for C is for the claimants, that was you, Sean

1 Caldwell, do you see that?

2 A Yes, sir.

3 Q Okay. So turning now to page 16, the referee asked you,

4 "Well, why didn't you work from February 1 to
5 February 10,"

6 And claimant answers,

7 "I was under the impression, ma'am, that due to
8 call-outs prior to that week, I was being possibly
9 non-policy disciplined, if you will, and I use that
10 term because it's to express a particular policy that
11 they used without it being on a paper."

12 Do you see that?

13 A Yes, sir.

14 Q Okay. You don't deny that you testified to those --
15 exactly that way on June 3rd of 2014 --

16 A No, sir.

17 Q -- right?

18 Okay. So you knew that if you called out without a proper
19 excuse you were going to get taken off the schedule, right?

20 A Yes, yes.

21 Q And you testified you didn't know you were being placed on
22 a 30 day probation, right?

23 A That's correct, sir.

24 Q Okay. You knew you were an employee at will, right?

25 A I'm sorry, sir?

1 Q You knew you could be fired at any time --

2 A No, sir.

3 Q Did you think that you had a contract that allowed you to
4 stay in for a particular period of time?

5 A No, sir, but phrase that more like -- perhaps I didn't
6 understand.

7 Q I couldn't hear you?

8 A Phrase at will that you used, I perhaps didn't understand.

9 Q Well, I'm just asking, did you know that you could be
10 fired -- well, let me ask you this.

11 Did you know that you could be fired for no call/no show?

12 A Not on the first occasion or --

13 Q Not on the first occasion?

14 A Or not on -- not without some kind of -- perhaps a verbal
15 warning or some kind of talk or something, sir.

16 Q You felt the employer couldn't fire you without giving you
17 some kind of a warning first?

18 A I believe that, sir, if that makes sense.

19 Q And did somebody at the union tell you that they couldn't
20 fire you --

21 A No, sir.

22 Q -- for that reason?

23 A No, sir.

24 Q What about excessive latenesses, did you, as far as you
25 know, could you be fired for excessive latenesses?

1 A Excessive latenesses, yes, sir. If you -- I guess or
2 disciplined and talked to, you know, all of the -- been to
3 probation as you were speaking about and it was still
4 continuing, then yes.

5 Q Okay. And if you -- are you saying that if you had been
6 -- if you knew you were being charged with latenesses, it
7 would've changed your conduct?

8 A Absolutely, sir, I feel it's the whole -- had I been
9 pulled to the side at any capacity and been told that, you
10 know, we're going in the wrong direction as far as that was
11 concerned, then I would've definitely I think had made or at
12 least attempted to make some changes in that regard.

13 Q Mr. Caldwell, you knew that not showing up for work on
14 time was a problem for the employer, right?

15 A I don't -- what do you mean?

16 Q Well, you knew it was a problem if you didn't show up for
17 work because they needed you?

18 A Yes, sir.

19 Q And you knew that it would be a problem if you were late
20 for work because they needed you, right?

21 A Yes, sir.

22 Q And then at some point, they were just going to fire you
23 if you kept on doing that same conduct, right?

24 A Yes, sir.

25 Q In fact, you signed a form when you came on board

1 acknowledging the rules and regulations about lateness without
2 prior notice of acceptable excuse and absence from work without
3 prior notice or acceptable excuse, correct?

4 A What did you say?

5 Q The second page of Exhibit 4-A, that's the March 21
6 discipline.

7 JUDGE ESPOSITO: The one on your left, sir. No, no, the
8 document on your left.

9 THE WITNESS: I'm with you, sir.

10 BY MR. HIRSCH:

11 Q Do you see that?

12 A Yes, sir.

13 Q Okay. You saw this before you got fired, right?

14 A No, sir.

15 Q Never saw it before?

16 A No, sir.

17 Q Okay. So if I have one with your signature on it, will I
18 be -- maybe that'll refresh your recollection.

19 A Yes, sir.

20 MR. HIRSCH: May I approach? This is MadAlisse Exhibit 2
21 for those on SharePoint.

22 JUDGE ESPOSITO: Sure.

23 BY MR. HIRSCH:

24 Q Mr. Caldwell, you've now been handed a document that's
25 been marked as MadAlisse -- what did I say, 2? MadAlisse 2,

1 turning to the second page, is that your signature?

2 A Yes, it is, sir.

3 Q Okay. So when you came on board working at this
4 restaurant you signed an employee awareness rules and
5 regulations form, right? Is that what it's titled on the first
6 page?

7 A Yes, sir.

8 Q Okay. And your signature is on the second page you said,
9 right?

10 A Yes, sir.

11 Q If you look on the first page, you see where it says "late
12 for work without prior notice of acceptable excuse"?

13 A I do, sir.

14 Q And it says "corrective action would be corrective
15 counsel, employee action form, termination." Do you see that?

16 A Yes, I do, sir.

17 Q And for absent from work without prior notice of
18 acceptable excuse, correction action says immediate
19 termination, right?

20 A Yes, sir.

21 Q And you saw this, you were given this when you started
22 working at Broad and Allegheny, right?

23 A I don't recall at that point in time, sir. It is apparent
24 that on 1/16/13 I signed off, but I can't tell you that I
25 recall signing this in May of 2012.

1 Q Yeah. I mean, Mr. Caldwell, did you lack a basic
2 understanding that you could be fired for not showing up for
3 work?

4 MR. WISSINGER: That's argumentative, Your Honor,
5 objection.

6 JUDGE ESPOSITO: No, overruled.

7 THE WITNESS: Could you repeat the question, please, sir?

8 BY MR. HIRSCH:

9 Q Did you not understand that you could be fired for not
10 showing up for work?

11 A Yes, sir.

12 Q And on March 21, 2012 the day you got fired --

13 A 2012, sir?

14 Q I'm sorry. Let me start again, I got the wrong date.

15 A Yes, sir.

16 Q March 21, 2014 --

17 A Okay.

18 Q March 21, 2014 you did not show up at 6 a.m. for your
19 appointed shift, right?

20 A That's correct, sir.

21 Q And on March 21, 2014, you didn't call before your shift
22 to let your employer know you were going to be late, right?

23 A No, I did call, sir.

24 Q Before your shift?

25 A No, sir.

1 Q No. You called over an hour after your shift started,
2 right?

3 A Yes, sir.

4 Q So the truck might have already been there, missed the
5 truck.

6 A Yes.

7 Q Right?

8 A Yes, sir.

9 Q And who knows what the condition of the restaurant was
10 because you weren't there, right?

11 A Yes, sir.

12 Q And somebody else had to fill in for you because you
13 didn't show up.

14 A Yes, sir.

15 Q And this was not the first time you had been tardy, was
16 it, Mr. Caldwell?

17 A No, sir.

18 Q You had been tardy many times before, right?

19 A I had been tardy before, sir, yes.

20 Q And you testified before that you showed up -- that you
21 called from home before you left to go to work, right?

22 A Yes, sir.

23 Q And you said that was about 7 o'clock in the morning,
24 right?

25 A Yes, sir.

1 Q Now, in your affidavit to the National Labor Relations
2 Board you said that you called at 7:15 in the morning. Do you
3 think that's more accurate?

4 A I'm not sure, sir.

5 Q Okay. In any event, is it fair to say that at least an
6 hour passed before --

7 A Yes.

8 Q -- from the start of your shift until the times you called
9 in, right?

10 A Yes, sir.

11 Q And you testified earlier it took you an hour and a half
12 to go from home to work, right?

13 A Yes, sir.

14 Q Okay. So is it fair to say that if you left right at 7,
15 you would've gotten there by 8:30, right?

16 A Yes, sir. Unless I was able to catch the express, sir.

17 Q Uh-huh. And if you left at 7:15, because your affidavit
18 did say you called at 7:15, wouldn't that mean you'd arrive
19 around 8:45?

20 A If I caught the express, sir, which I believe I did that's
21 how I got there at 8 o'clock, sir.

22 Q So 8 o'clock is still two hours late for the shift, right?

23 A Yes, sir.

24 Q You hadn't called -- you hadn't spoken to a manager at the
25 store by that point, had you?

1 A I had not, sir.

2 Q Okay. You did have Dominique Johnson's cell phone number,
3 didn't you?

4 A I did, sir.

5 Q And, in fact, on prior occasions you had texted Dominique
6 Johnson about things going on in the restaurant; isn't that
7 true?

8 A Have I texted her about things going on in the restaurant?

9 Q For example, if you photographed, you know, something that
10 you had cleaned and sent it to her; isn't that right, you would
11 do that kind of thing?

12 A Yes, sir.

13 Q Okay.

14 A Yes, sir.

15 Q Yeah, and you did that within a couple of weeks before
16 your termination date, didn't you?

17 A I'm not sure, sir.

18 Q Do you want to go back to your transcript Exhibit
19 MadAlisse 16.

20 MR. HIRSCH: It'll just take me a second, Your Honor.

21 JUDGE ESPOSITO: Sure.

22 (Pause)

23 BY MR. HIRSCH:

24 Q Page 18 -- why don't you just take a look of the first
25 third of the page and just tell me if that refreshes your

1 recollection that it was within a couple of weeks before your
2 termination you had texted Dominique Johnson, right?

3 (Pause)

4 A (No response)

5 Q You had sent Dominique pictures on the cell phone.

6 A When you say within a couple of weeks, I'm --

7 Q Well, you were fired on the 21st, two weeks before would
8 be the 7th.

9 A Okay.

10 Q Okay. So is that correct that at about two weeks before -
11 - I'll just say about two weeks before your termination you had
12 texted Dominique, correct?

13 A Are you saying that I texted her with a work related --

14 Q Sure.

15 A -- cleaning task or something?

16 Q Yes.

17 A Yes, sir.

18 Q Isn't it a fact that you had John the IV -- John Dawkins,
19 IV's cell phone number as well?

20 A I don't recall that, sir.

21 Q You did have the cell phone numbers of some of your co-
22 workers at the time, correct?

23 A Yes.

24 Q You testified to that earlier, right?

25 A Yes, sir.

1 Q Did you attempt to text or call any of them to ask them to
2 let the shift manager that you were running late?

3 A On what day, sir? The 21st?

4 Q On March 21, 2014.

5 A No, sir, I didn't call them, no, sir, or text anyone who I
6 thought might be in the store to get in touch with the manager
7 to let them know I was on the way. And I can't speak for why I
8 didn't think of that.

9 Q Okay. So in any event, I'm sorry to jump around here, but
10 I'm going to go back to GC Exhibit Joe-Dan 4, we were talking
11 about the February 1 employee action form when you got
12 suspended. Do you see that one, going back to GC Exhibit Joe-
13 Dan 4.

14 JUDGE ESPOSITO: No, it's --

15 MR. HIRSCH: That's the whole packet of write-ups.

16 JUDGE ESPOSITO: Not 4.

17 MR. HIRSCH: That's the one.

18 BY MR. HIRSCH:

19 Q So it's the back of the second page it says February 1 of
20 2014 where you got suspended.

21 A Yes, sir.

22 Q So in any event, you knew that you were taken off the
23 schedule for that period of time, correct?

24 A Yes, sir.

25 Q And you did think that it was because of your tardiness

1 problem, right?

2 A Yes, sir, according to the transcript, yes, sir.

3 Q Okay. And according to your own testimony.

4 A Yes, my testimony, yes, sir, yes.

5 Q Okay. You just deny that you were given a copy of this at
6 the time.

7 A A copy of --

8 Q Of the write-up?

9 A Oh, yes, sir. Yes, sir.

10 Q And you deny that you knew you were on probation.

11 A Yes, sir.

12 Q Mr. Caldwell, why don't we turn to the next one in the
13 packet, January 31, 2014.

14 Do you remember not showing up on time on January 31,
15 2014?

16 A No, sir. You said January --

17 Q January 31, 2014.

18 A And you said I didn't show up, sir?

19 Q Well, let me just take a second and double-check. At the
20 very least, you were late that day.

21 JUDGE ESPOSITO: Is that the question, Mr. Hirsch --

22 MR. HIRSCH: Yes.

23 JUDGE ESPOSITO: -- whether he -- do you recall being late
24 that day, sir?

25 THE WITNESS: No, sir.

1 BY MR. HIRSCH:

2 Q Okay. Do you recall being absent from work that day?

3 A No, sir.

4 Q If you look on Exhibit MadAlisse 3, which is the time
5 punch summary, you'll notice that there is no time punch entry
6 for that day. Do you see that? There is no January 31 entry.

7 A Yes, sir.

8 Q Right. But you testified that you normally worked on what
9 days, Monday, Wednesday, Friday?

10 A Monday, Wednesday, Friday, Saturday, sir.

11 Q And Saturday. Okay. And so am I correct that the 31st of
12 January 2014 would've been Friday, your normal scheduled work
13 day?

14 A Yes, sir.

15 Q Okay.

16 MR. HIRSCH: May I approach, this is going to be MadAlisse
17 Exhibit 7.

18 JUDGE ESPOSITO: Sure.

19 (Pause)

20 BY MR. HIRSCH:

21 Q Mr. Caldwell, you've been handed a document marked --
22 well, it's a series of documents. I think it's Exhibits
23 MadAlisse 4 through 10, but I want you to go to MadAlisse 7,
24 which should be about three or four pages in.

25 This is the one for January 31, 2014, Friday.

1 A Yes, sir.

2 Q Okay. And first of all, have you seen a schedule like
3 this before when you were working there?

4 A Not like this, sir.

5 Q Not like this one?

6 A No, sir.

7 Q Okay. Do you have any reason to doubt that the employer's
8 schedule was accurate?

9 MS. KOBELL: Your Honor, I'm going to object. We don't --
10 the witness hasn't identified this document, he doesn't appear
11 to know what it is.

12 MR. HIRSCH: Okay. Well, you know, I'll move on, Your
13 Honor.

14 JUDGE ESPOSITO: Okay.

15 MR. HIRSCH: That's I think -- I'll move on.

16 (Pause)

17 BY MR. HIRSCH:

18 Q Let's go to the one dated December 14th, 2013, Exhibit
19 Joe-Dan 4, this is the employee action forms again.

20 A Which form, sir? I'm sorry.

21 Q This is Exhibit -- GC Exhibit Joe-Dan 4, the packet of
22 employee write-ups --

23 A Yes.

24 Q -- the one for December 14, 2013. It looks like a whole
25 bunch of the other ones right after that were -- right before

1 that one were about call-outs or no shows, so let's go to
2 December 14th.

3 A I'm here, sir.

4 Q Okay. So this one says that you were -- you did not
5 arrive until 38 minutes after your shift started, right?

6 A Yes, sir.

7 Q Okay. And I believe --

8 MR. HIRSCH: I haven't handed this one up yet. This is an
9 additional -- a more extensive time punch summary that overlaps
10 to some extent with the other one.

11 MR. BRODY: What number is the exhibit, please?

12 MR. HIRSCH: This is MadAlisse 15. This is another --

13 MS. KOBELL: Before you start, I'm going to have to object
14 to this document. You've taken the position at least as far as
15 I've been here today that Joe-Dan MadAlisse LTC LLC did not
16 operate this restaurant until August the 1st, 2013, yet these
17 documents appear to go back to September 9, 2012.

18 MR. HIRSCH: Yeah, they do, because that's the data was
19 available on the system. So that -- there's no question that
20 the store was open back to 2012, and that the data is there,
21 that's why it was produced. That doesn't mean that it wasn't
22 owned by another entity prior to the time. So the existence of
23 the record in the ISP system is a matter of fact, it's just --

24 MS. KOBELL: Whose ISP system? Joe-Dan MadAlisse, or Joe-
25 Dan Enterprises or some other entity?

1 MR. HIRSCH: ISP system at the store. So the data was
2 there, there was no wiping clean of the drive, it was there, so
3 we produced it. That doesn't mean that it was not owned by
4 another entity, it just means that there was time entries for
5 this employee that predated that -- the start of Joe-Dan
6 MadAlisse's operation of the store.

7 JUDGE ESPOSITO: Okay. So --

8 MR. HIRSCH: So I don't intend to ask any questions,
9 although Ms. Kobell went extensively through all these write-
10 ups that predated Joe-Dan MadAlisse's operation of the store, I
11 don't intend to go back beyond August 1 of 2013, but this one
12 is December 14th of 2013. That's what this write-up is for.

13 JUDGE ESPOSITO: Okay.

14 BY MR. HIRSCH:

15 Q So, Mr. Caldwell, you've been handed a document that's
16 been marked as Exhibit MadAlisse 15. And if you turn to --
17 this is I guess towards the back, if you look at the dates,
18 December 14, 2013, do you see that entry?

19 JUDGE ESPOSITO: It's the second to the last page, sir.

20 THE WITNESS: Could you give me the date again, sir?

21 Q December 14th, 2013.

22 A I got it, sir.

23 Q Okay. See that one showing your time punch entry for
24 arrival at 6:38 a.m.?

25 A Yes, sir.

1 Q Okay. And that's the same number of minutes that were
2 shown in GC Exhibit Joe-Dan 4, the employee action form for
3 December 14th, 2015, right?

4 A Yes, sir.

5 Q Okay. So you were 38 minutes late that day.

6 A Yes, sir.

7 Q Okay. Let's -- going back to GC Exhibit Joe-Dan 4, going
8 to the next page, which is the write-up for October 26th, 2013.
9 Do you see that one?

10 A Yeah, the exhibit, sir?

11 Q GC Exhibit Joe-Dan 4, it's the write-ups, packet of write-
12 ups?

13 A Okay.

14 Q Okay. So --

15 JUDGE ESPOSITO: So we're on October 25th, 2013.

16 THE WITNESS: Okay. I'm with you, sir.

17 BY MR. HIRSCH:

18 Q Do you see this one, Mr. Caldwell?

19 A Yes, sir.

20 Q So this one you were written up for arriving at 7:46 a.m.
21 for a 6 a.m. shift, do you see that?

22 A I do, sir.

23 Q Going back to MadAlisse Exhibit 15, which was that time
24 punch report, why don't you look up the date for October 25,
25 2013. Do you see that? October 25, 2013.

1 A I have it, sir.

2 Q Okay. And you see the time punch entry shows your arrival
3 at 7:46 a.m.

4 A Yes, sir.

5 Q Okay. So you were an hour and 46 minutes late for your
6 shift that day?

7 A Yes, sir.

8 Q Okay. Mr. Caldwell, is it fair to say that you knew you
9 had a tardiness problem over the course of the time that you
10 worked for Joe-Dan MadAlisse?

11 A No, sir.

12 Q You didn't?

13 A No, sir, I didn't consider it a problem, sir.

14 Q Okay. Mr. Caldwell, do you remember a series of questions
15 you had about whether or not you were aware of any loitering
16 policy regarding employees?

17 A Yes, sir.

18 Q Okay. And I believe you said you were not aware of any
19 such policy.

20 A Yes, sir.

21 MR. HIRSCH: Okay. This will be Exhibit MadAlisse 12 on
22 SharePoint.

23 MR. WISSINGER: I don't see a 12.

24 MR. HIRSCH: Did I not upload it to SharePoint? If not,
25 I'll do that right now? My apologies, let me write that up.